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THE WHITE HOUSE
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August 6, 1982

MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE SECRETARY OF COMMERCE
THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET
THE DIRECTOR OF CENTRAL INTELLIGENCE
THE CHAIRMAN, JOINT CHIEFS OF STAFF
THE DIRECTOR, ARMS CONTROL AND DISARMAMENT AGENCY
THE DIRECTOR, OFFICE OF SCIENCE AND TECHNOLOGY POLICY
THE ADMINISTRATOR, NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

SUBJECT: Space Assistance and Cooperation Policy

The President has approved the attached National Security Decision Directive on Space Assistance and Cooperation. Also attached are implementing guidelines.

FOR THE PRESIDENT:


William P. Clark

Attachments

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August 6, 1982

NATIONAL SECURITY DECISION
DIRECTIVE NUMBER 50SPACE ASSISTANCE AND COOPERATION POLICY**I. INTRODUCTION**

The fundamental aspects of National Security Decision Memorandum (NSDM) 187 of August 30, 1972, as they apply to today's international space activity have been reviewed. This review highlighted the substantial lead the U.S. enjoys in a wide variety of technological and space related areas -- a lead which should be maintained when considering and implementing any international activity or transfer governed by the following directive. Based upon this review, this directive which replaces NSDM 187 is approved and provides general guidance for U.S. space launch assistance; space hardware, software and related technologies assistance; and international space cooperation. Specific implementing guidelines are being issued by the Assistant to the President for National Security Affairs.

II. POLICY GOVERNING SPACE LAUNCH ASSISTANCE

In dealing with requests from foreign governments, international organizations or foreign business entities for assistance in launching foreign spacecraft, the following general policy guidance is provided.

U.S. launch assistance will be available to interested countries, international organizations or foreign business entities for those spacecraft projects which are for peaceful purposes and are consistent with U.S. laws and obligations under relevant international agreements and arrangements (such as Intelsat) as determined by the U.S. Government.

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III. POLICY GOVERNING SPACE HARDWARE, AND RELATED TECHNOLOGIES ASSISTANCE

In dealing with requests for the transfer of, or other assistance in the field of space hardware, software and related technologies, the following general policy guidance is provided.

Sales of unclassified U.S. space hardware, software, and related technologies for use in foreign space projects will be for peaceful purposes; will be consistent with relevant international agreements and arrangements and relevant bilateral agreements and arrangements; will serve our objectives for international cooperation in space activities (see Section IV); will contain restrictions on third country transfers; will favor transfers of hardware over transfers of technology; will not adversely affect U.S. national security, foreign policy, or trade interests through diffusion of technology in which the U.S. has international leadership; and will continue to be subject to the export control process. A special interagency coordinating group chaired by the Department of State will be established to consider special bilateral agreements covering the transfer of space hardware, software, and related technologies.

IV. OBJECTIVES OF INTERNATIONAL COOPERATION IN SPACE ACTIVITIES

The broad objectives of the United States in international cooperation in space activities are to protect national security; promote foreign policy considerations; advance national science and technology; and maximize national economic benefits, including domestic considerations. The suitability of each cooperative space activity must be judged within the framework of all of these objectives.

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IMPLEMENTING GUIDELINES TO THE SPACE ASSISTANCE
AND COOPERATION POLICY

A. Policy Governing Space Launch Assistance

1. Space launch assistance will be available, consistent with U.S. laws, either from U.S. launch sites through the acquisition of U.S. launch services on a cooperative or reimbursable basis or from foreign launch sites by purchase of an appropriate U.S. launch vehicle (see policy guidance under Section B). In the case of launchings from foreign sites, the U.S. will require assurance that the launch vehicles will be used solely for peaceful purposes and will not be made available to third parties without prior agreement of the U.S.

2. Although due consideration is to be given to Intelsat definitive arrangements, the absence of a favorable Intelsat recommendation regarding such arrangements should not necessarily preclude U.S. launching of public domestic or international telecommunications satellites when such launching is determined to be in the best interests of the U.S.

3. With respect to the financial conditions for reimbursable launch services from U.S. launch sites, foreign users (including international organizations) will be charged on the same basis as comparable non-U.S. Government domestic users.

4. With respect to the priority and scheduling for launching foreign payloads at U.S. launch sites, such launchings will be dealt with on the same basis as U.S. launchings. Each launching will be treated in terms of its own requirements and as an individual case. Once a payload is scheduled for launch, the launching agency will use its best efforts to meet the scheduling commitments. Should events arise which require rescheduling, such as national security missions, the U.S. will consult with all affected users in an attempt to meet the needs of the users in an equitable manner.

5. Interface drawings and hardware (i.e., spacecraft attach fittings, etc.) provided in connection with the launch assistance provisions of this policy shall be exempt from the provisions of Section B.

B. Space Hardware, and Related Technologies Assistance

1. For the purpose of this policy, the following distinctions are recognized:

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a. Hardware, software, and related technical information include:

- (1) Equipment in the form of launch vehicle components and spacecraft including subsystems and components thereof, associated production and support equipment.
- (2) General physical and performance specifications, and operating and maintenance information on the above equipment.

b. Technical assistance (technology, data and know-how) necessary for design, development and production of space hardware and software, including pertinent laboratory and test equipment or performance of functions and/or the conveyance of oral, visual or documentary information involving the disclosure of information relating to:

- (1) Development and testing activities, detailed design drawings and specifications, managerial and engineering know-how and problem solving techniques.
- (2) Production activities in the form of licenses, detailed production drawings, process specifications, and identification of requirements for production equipment.

2. The purpose of drawing the distinction between "hardware, software and related technical information" and "technical assistance" is to maintain U.S. technological advantage. This can best be done by selling "hardware, software and related technical information," the product of our technology, rather than by selling the technology itself which, once gone, is irretrievable. This does not mean that transfer of certain "technical assistance" under appropriate safeguards should not be considered on a case-by-case basis. In those cases in which "technical assistance" is provided, it should be done under safeguards which ensure protection of U.S. national security and foreign policy interests. Thus, whether the sale involves "hardware, software and related technical information," or "technical assistance," or some combination, adequate assurances to control replication and retransfer and ensure peaceful use must be provided in advance of the transfer through bilateral agreements, export licensing procedures or other mechanisms. Such sales must be considered carefully to avoid adversely affecting U.S. national security, foreign policy, or trade interests through diffusion of technology in which the U.S. has international leadership.

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3. All requests for the export or exchange of either space "hardware, software and related technical information" or "technical assistance" as defined above must specify the end use for which it is sought.

4. All such requests shall be examined on a case-by-case basis in accordance with applicable U.S. laws and regulations to determine the net advantage to the U.S. The determination shall take into account relevant international agreements and arrangements, relevant bilateral agreements and arrangements, and our objectives for international cooperation in space activities (see Section C).

5. U.S. space "hardware, software and related technical information" or "technical assistance" as defined above shall be made available solely for peaceful purposes. No U.S. space "hardware, software and related technical information" or "technical assistance" as defined above shall be made available by a recipient to a third party without the express prior agreement of the U.S. This includes any cases where U.S. space hardware is launched from a foreign site.

6. U.S. space "hardware, software and related technical information" or "technical assistance" as defined above, or any hardware, software, or technical information and processes derived from such transfers, will not be used to contribute to or assist in the development of any foreign weapon delivery system. Further, any officially promulgated national security policy directive is overriding with respect to the transfer of military-related missile hardware, information or technology within its purview.

7. In view of the sensitivity of space technology, the following distinctions shall be applied in reaching decisions as to its export. These distinctions shall apply both to transfer abroad by federal agencies and to commercial export.

a. Proposals or requests for the export of space "hardware, software and related technical information" should be met, when in the interests of the U.S., through the provision of "hardware, software and related technical information" rather than "technical assistance" as defined above, whenever possible and reasonable to do so.

b. "Technical assistance" as defined above shall be exported only under adequate safeguards providing for its use and protection.

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8. In instances where space "hardware, software and related technical information" and "technical assistance" are intended specifically for use in operational communication satellite projects to provide public domestic or international telecommunications services, its export shall be governed as specified in Section III of the Space Assistance and Cooperation Policy and Section A, paragraph 2 above.

9. Recognizing distinct U.S. national interests, special bilateral agreements covering the transfer of space launch vehicle "hardware, software and related technical information" or "technical assistance" may be considered under the following guidance:

a. The Department of State will convene and chair a special interagency coordinating group consisting of representatives from DOD, ACDA, NASA, NSC, OSTP, DOD, DCI, and other interested agencies as appropriate to recommend policy and to decide upon, formulate, negotiate, and provide general guidance on implementation oversight activities regarding bilateral agreements covering transfer to selected foreign governments and international organizations.

b. Such agreements with selected foreign governments and international organizations will contain provisions for peaceful use assurances, restrictions on third country transfers and other appropriate safeguards as may be deemed necessary and mutually agreed.

c. Any agreements that would result in funding demands on the U.S. Government must be approved through the budgetary process prior to any commitment with a foreign entity.

d. Transfer of specific space "hardware, software and related technical information" and "technical assistance" under such agreements will continue to be subject to the export control review process.

10. The U.S. should encourage other supplier nations of space "hardware and related technical information" and "technical assistance" to establish controls on their exports which are comparable to those set forth in this policy.

C. Objectives of International Cooperation in Space Activities

National Security Objectives

- a. To maintain the U.S. margin of advantage in technology of significance to our national security, and to avoid release of space hardware and technology which is considered to involve a disproportionate risk to our national security.

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- b. To avoid proliferation of foreign capabilities to develop and deploy advanced weapons systems.

Foreign Policy Objectives

- a. To gain other countries' support for the U.S. in general by promoting the U.S. national interest through bilateral and multilateral cooperation.
- b. To assist in the achievement of foreign policy objectives through:
 - (1) Strengthening our allies and improving our working relationships with them.
 - (2) Promoting multilateral cooperation with, and among, other nations (similar to on-going U.S. cooperation with the European Space Agency) through suitable cooperation with their programs, on a commercial or joint program basis, in the event they desire such cooperation.
- c. To encourage other countries to associate their interests with our space program.
- d. To enhance U.S. prestige and ensure the U.S. position as the world's leader in science and technology.
- e. To prevent diversion of space technology to other than peaceful uses and to seek maximum U.S. influence over the development and use of space capabilities by other countries through foreign participation in U.S. space activities and U.S. participation in space activities abroad.
- f. To demonstrate that the U.S. is a reliable partner in international ventures.

Scientific and Technological Objectives

- a. To foster cooperation in basic scientific research.
- b. To develop precedents and experience in substantial cooperative undertakings which will lend themselves to other international scientific and technological activities.

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- c. To obtain support and assistance in the development of our national program through (1) acquisition of scientific and technical contributions from areas of excellence abroad and (2) use of facilities abroad that are necessary for mission support - tracking stations, overflights, contingency recovery, etc.

Economic Objectives

- a. To maximize economic benefit by appropriately weighing:
 - (1) Implications of releasing technology which involves commercial "know-how";
 - (2) enhancement of the competitive position of the U.S. aerospace industry;
 - (3) ensuring a reasonable return on the American investment in space technology; and
 - (4) promoting positive effects on domestic employment and our balance of payments.
- b. Promote economic benefits for the U.S. through increased export and trade, through foreign purchases of goods and services, and through increased utilization of space and space technology.
- c. To seek opportunities to enhance our overall competitive position in space technology.
- d. To seek more productive aggregate use of American and foreign resources and skills.
- e. To seek foreign financial participation in our space payloads.
- f. To enhance the cost-effectiveness of space systems through increased and more effective use.

D. Effective immediately, National Security Decision Memorandum 187 is rescinded.

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